IN THE UNITED STATES DISTRICT COURT DISTRICT OF SOUTH CAROLINA CHARLESTON DIVISION

Jacques Clinton,)
Plaintiff,))
vs.	:)
Richard Evans,	· :	ORDER
Defendant.))
)

This matter comes before the Court on Defendant's motion for summary judgment regarding Plaintiff's claims arising under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). (Dkt. No. 31). Defendant asserts that Plaintiff failed to exhaust his administrative remedies, as required by the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a). This matter was referred to the Magistrate Judge for pre-trial handling pursuant to 28 U.S.C. §636(b) and Local Rule 73.02, D.S.C. The Magistrate Judge issued a Report and Recommendation ("R & R") on July 9, 2012 recommending that Defendant's motion for summary judgment be granted. (Dkt. No. 45). The parties were advised that they had 14 days to file specific written objections to the R & R, and the failure to file timely objections would result in limited review by the District Court and a waiver of appellate rights. (Dkt. No. 45 at 11). No timely objections were filed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination rests with this

Court. Mathews v. Weber, 422 U.S. 483(1976). The Court is charged with making a de novo determination of those portions of the R & R to which specific objection has been made. The Court may accept, reject or modify, in whole or in part, the recommendation of the Magistrate Judge. 28 U.S.C. § 636(b)(1).

The Court has reviewed the record in this matter, the R & R of the Magistrate Judge and the applicable law. The Court finds that the Magistrate Judge accurately and ably set forth the factual and legal issues in this matter. Therefore, the Court hereby **ADOPTS** Sections I and II of the Magistrate Judge's R & R as the order of the Court. The Court **GRANTS** Defendant's motion for summary judgment without prejudice.

AND IT IS SO ORDERED.

Richard Mark Gergel United States District Judge

August <u>3</u>, 2012 Charleston, South Carolina.